U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 25675486

Date: FEB. 28, 2023

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner seeks classification as an alien of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Texas Service Center Director denied the Form I-140, Immigrant Petition for Alien Workers (petition), concluding that the Petitioner did not establish that he received a major, internationally recognized award, nor did he demonstrate that he met at least three of the ten regulatory criteria. The matter is now before us on appeal. The Petitioner bears the burden of proof to demonstrate eligibility to U.S. Citizenship and Immigration Services by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. ANALYSIS

After reviewing the entire record, we adopt and affirm the Director's ultimate determination with the added comments below. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. I.N.S.*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting the practice of adopting and affirming the decision below has been "universally accepted by every other circuit that has squarely confronted the issue"); *Chen v. INS*, 87 F.3d 5, 7–8 (1st Cir. 1996) (joining eight U.S. Courts of Appeals in holding that appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case).

The Petitioner filed the initial petition with a large amount of evidence, but he did not adequately instruct the Director of how the material applied to any particular regulatory criterion. The Director issued a request for evidence and in response the Petitioner included some additional information about awards as well as the criteria he was claiming, but that response still lacked a description of what evidence applied to those other criteria and how it demonstrated his eligibility.

The Director denied the petition offering a brief analysis relating to the Petitioner's claimed one-time achievement and the lesser prizes or awards criterion, noting he did not satisfy the requirements for either of them. On appeal, the Petitioner reiterates his claims of a one-time achievement and he again lists the criteria he claims to meet, but he only offers a broad statement that the Director was incorrect to deny his petition. Like the filing before the Director, the Petitioner's appellate filing lacks specific arguments relating to each regulatory requirement, the evidence that applies to each criterion, and an explanation of how that evidence satisfies each criterion.

This is not an adequate basis to contest the Director's adverse decision on the regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x). The reason for filing an appeal is to provide an affected party with the means to remedy what they perceive as an erroneous conclusion of law or statement of fact within a decision in a previous proceeding. *See* 8 C.F.R. § 103.3(a)(1)(v). By presenting only a generalized statement without explaining the specific aspects of the denial they consider to be incorrect, the affected party has failed to identify the basis for the appeal. *Matter of Valencia*, 19 I&N Dec. 354, 354–55 (BIA 1986). We consider those issues (the regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x)) waived on appeal. *Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing *Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012) and finding when a filing party mentions an issue without developing an argument, the issue is deemed waived).

As it relates to the Petitioner's claimed one-time achievement, he asserts the "Hispanic American World Congress and the World Congress of Universities Award is only given to prestigious personalities who have left their mark on their work worldwide."

The regulation at 8 C.F.R. § 204.5(h)(3) states that a petitioner may submit evidence purporting to be a major, internationally recognized award. Congress intended to restrict this immigrant classification to "that small percentage of individuals who have risen to the very top of their field of endeavor," the regulation permitting eligibility based on a one-time achievement must be interpreted very narrowly, with only a small handful of awards qualifying as major, internationally recognized awards. *See* H.R. Rep. 101-723, 59 (Sept. 19, 1990), *reprinted in* 1990 U.S.C.C.A.N. 6710, 1990 WL 200418 at *6739. Given that the House Report specifically cited to the Nobel Prize as an example of a one-time achievement, examples of one-time awards which enjoy major, international recognition may include the Pulitzer Prize, the Academy Award, and (most relevant for athletics) an Olympic Medal.

The regulation is consistent with this legislative history, stating that a one-time achievement must be a *major, internationally recognized* award. 8 C.F.R. § 204.5(h)(3). The selection of Nobel Laureates, the example provided by Congress, is reported in the top media internationally regardless of the nationality of the awardees, is a familiar name to the public at large, and includes a large cash prize. While an internationally recognized award could conceivably constitute a one-time achievement without meeting all those elements, it is clear from the example provided by Congress that the award must be global in scope and internationally recognized in the foreign national's field as one of the top awards in that field.

Although the Petitioner's identified award is an achievement, the regulation at 8 C.F.R. § 204.5(h)(3) requires the one-time achievement to be "a major, international[ly] recognized award." The Petitioner did not present evidence, for example, establishing that this award is widely reported by international media, is recognized by the general public, or garners attention comparable to other major, globally

recognized awards such as Academy Award winners. He relies on a letter from the issuing entity but does not offer adequate coverage of this award. Accordingly, the Petitioner has not demonstrated that his receipt of this award meets the requirements of a one-time achievement.

II. CONCLUSION

The appeal will be dismissed for the above stated reasons, with each considered an independent and alternative basis for the decision. In visa petition proceedings, it is a petitioner's burden to establish eligibility for the immigration benefit sought. The Petitioner has not met that burden.

ORDER: The appeal is dismissed.